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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/319,324	06/03/1999	GREG ALAN KRANAWETTER	RCA88228	2806

7590

11/18/2002

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EXAMINER

SENF, BEHROOZ M

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/319,324

Applicant(s)

KRANAWETTER ET AL.

Examiner

Behrooz Senfi

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed Oct. 29, 2002 have been fully considered but they are not persuasive.
2. Claims 1 – 15 are rejected under 35 U.S.C. 102(e) as being unpatentable over Park (US 5,675,424) for the same reason as set forth in previous Office Action (Paper No. 4, dated Jul. 8, 2002).

Response to remarks:

Applicant asserts (Paper No. 6, page 2, Remarks) that the section relied upon by the examiner for 102(e) rejection in the Park '424 patent is part of the "description of the Prior Art" in said patent and not the work of Park '424 himself. Therefore, such a citation cannot be qualified under 35 USC 102(e) because the "work" does not belong to Park '424 as required by the 102(e) statute. This argument is groundless and without merit. The 102(e) statute specifies that an applicant for a patent shall be entitled to a patent unless the same subject matter was described in a patent granted on an application for patent by "another" filed in the US before the invention thereof by the applicant. The statute did not set forth which part of the patent by another qualifies as prior art under 102(e). In fact, the statute clearly states that if the subject matter sought to be patented "was described" in a patent granted by another, then the applicant shall not be entitled to a patent. This language implies the entire patent qualifies as prior art. Again, applicant's argument is without merit.

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Applicant asserts (Paper No. 6, page 3, Remarks) that demultiplexer 13 of fig. 3a described by Park '424 does not derive multiple data-streams from a single data-stream. After carefully reviewing Parks '424 reference, Examiner agrees with the applicant due to misreading it. However, that does not remove Parks '424 from anticipating the subject as claimed. For example, Parks '424 does indeed disclose the same as claimed (i.e. fig. 3b, 61) as correctly referenced. Furthermore the combination of (i.e. figs. 3a-3b, units 13 and 61) serves the same as the interleaving network as claimed.

Applicant asserts (Paper No. 6, page 4, Remarks) that Park's '424 reference fails to include significant elements of the present claims, and concluded that the examiner appears to take the position that the limitations claimed (in claim 1) are inherent features of multiplexer. Examiner disagrees;

Examiner fails to understand the argument "significant elements of the present claims". What features are the "significant elements" raised in the argument? Clarification is requested. As for the assertion that the examiner relied on inherency in Parks '424 to anticipate the feature of interleaving in the multiplexer, the examiner's position is not based on inherency, but rather based on factual basis. Multiplexing involves interleaving.

Applicant asserts (Paper No. 6, page 4, lines 20+, Remarks) that no basis has been shown in park '424 regarding interleaved first and second data stream.

Examiner disagrees, Park '424 (i.e. fig. 4, element 87 and 90) process the data base on an interleaved fashion (i.e. fig. 4, switch 87).

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Applicant asserts (Paper No. 6, page 5, Remarks) that "no proper basis for rejections under 35 U.S.C. 103(a).

Previous Office Action did not raise any 103(a) rejection issue. Thus, this argument is irrelevant.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Behrooz Senfi** whose telephone number is **(703)305-0132**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chris Kelley** can be reached on **(703)305-4856**.

Any response to this action should be mailed to:

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:


(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relative to the status of the application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

B. S. B. S.

11/14/2002


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600